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MONTANA CONSTITUTIONAL CONVENTION

1971-1972

REPORT OF COMMITTEE ON STYLE, DRAFTING, TRANSITION AND SUBMISSION

ON

LOCAL GOVERNMENT

No. XI

Date Reported: March 20, 1972

John M. Schultz, Chairman

William S. Burkhardt, Vice Chairman

TO: Montana Constitutional Convention

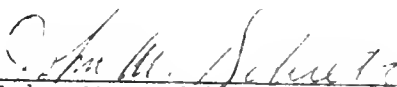
SUBJECT: LOCAL GOVERNMENT

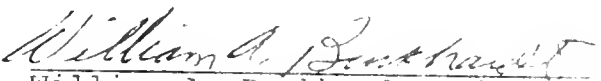
Ladies and Gentlemen:

The Committee on Style, Drafting, Transition and Submission transmits revisions of the above Article for consideration of the Convention.

Immediately following this letter you will find the above Article as revised by the Committee. Following that is the Article indicating (by underlining) words we have added and (by crossing out) words we have deleted from the Article as approved. Finally, there is an explanation of the changes we have made.

Sincerely,


John M. Schiltz, Chairman of the
Committee on Style, Drafting,
Transition and Submission


William A. Burkhardt, Vice Chairman
of the Committee on Style, Drafting,
Transition and Submission

1 BE IT PROPOSED BY THE LOCAL GOVERNMENT COMMITTEE:

2 That there be a new Article on Local Government to
3 read as follows:

4
5 ARTICLE

6 LOCAL GOVERNMENT

7 Section 1. DEFINITION. The term "local government
8 units" includes, but is not limited to, counties and
9 incorporated cities and towns. Other local government
10 units may be established by law.

11 Section 2. COUNTIES. The counties of the state are
12 those that exist on the date of ratification of this con-
13 stitution. No county boundary may be changed or county
14 seat transferred until approved by a majority of those
15 voting on the question in each county affected.

16 Section 3. FORMS OF GOVERNMENT. (1) The legislature
17 shall provide methods for governing local government units
18 and procedures for incorporating, classifying, merging,
19 consolidating, and dissolving such units, and altering
20 their boundaries. The legislature shall provide such optional
21 or alternative forms of government that each unit or combina-
22 tion of units may adopt, amend, or abandon an optional or
23 alternative form by a majority of those voting on the
24 question.

25 (2) One optional form of county government includes, but
26 is not limited to, the election of three county commis-
27 sioners, a clerk and recorder, a clerk of district court,
28 a county attorney, a sheriff, a treasurer, a surveyor,
29 a county superintendent of schools, an assessor, a coroner,
30 and a public administrator. The terms, qualifications, duties,

1 and compensation of those offices shall be provided by
2 law. The Board of county commissioners may consolidate
3 two or more such offices. The Boards of two or more
4 counties may provide for a joint office and for the
5 election of one official to perform the duties of any
6 such office in those counties.

7 Section 4. GENERAL POWERS. (1) A local government
8 unit without self-government powers has the following
9 general powers:

10 (a) An incorporated city or town has the powers of
11 a municipal corporation and legislative, administrative,
12 and other powers provided or implied by law.

13 (b) A county has legislative, administrative, and
14 other powers provided or implied by law.

15 (c) Other local government units have powers pro-
16 vided by law.

17 (2) The powers of incorporated cities and towns and
18 counties shall be liberally construed.

19 Section 5. SELF-GOVERNMENT CHARTERS. (1) The legis-
20 lature shall provide procedures permitting a local govern-
21 ment unit or combination of units to frame, adopt, amend,
22 revise, or abandon a self-government charter with the
23 approval of a majority of those voting on the question.
24 The procedures shall not require approval of a charter by
25 a legislative body.

26 (2) If the legislature does not provide such pro-
27 cedures by July 1, 1975, they may be established by election
28 either:

29 (a) Initiated by petition in the local government unit
30 or combination of units; or

1 (b) Called by the governing body of the local govern-
2 ment unit or combination of units.

3 (3) Charter provisions establishing executive, legis-
4 lative, and administrative structure and organization are
5 superior to statutory provisions.

6 Section 6. SELF-GOVERNMENT POWERS. A local government
7 unit adopting a self-government charter may exercise any
8 power not prohibited by this constitution, law, or charter.
9 This grant of self-government powers may be extended to
10 other local government units through optional forms of
11 government provided for in section 3.

12 Section 7. INTERGOVERNMENTAL COOPERATION. (1) Unless
13 prohibited by law or charter, a local government unit may

14 (a) cooperate in the exercise of any function, power,
15 or responsibility with,

16 (b) share the services of any officer or facilities
17 with,

18 (c) transfer or delegate any function, power, responsi-
19 bility, or duty of any officer to
20 one or more other local government units, school districts,
21 the state, or the United States.

22 (2) The qualified electors of a local government unit
23 may, by initiative or referendum, require it to do so.

24 Section 8. INITIATIVE AND REFERENDUM. The legislature
25 shall extend the initiative and referendum powers reserved to
26 the people by the constitution to the qualified electors of
27 each local government unit.

28 Section 9. VOTER REVIEW OF LOCAL GOVERNMENT. (1) The
29 legislature shall, within four years of the ratification of
30 this constitution, provide procedures requiring each local

1 government unit or combination of units to review its
2 structure and submit one alternative form of government
3 to the qualified electors at the next general or special
4 election.

5 (2) The legislature shall require a review
6 procedure once every ten years after the first election.

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1 BE IT PROPOSED BY THE LOCAL GOVERNMENT COMMITTEE:

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7 Section 1. DEFINITION. The term "local government
8 units" includes, but is not limited to, counties and
9 incorporated cities and towns. Other local government
10 units may be established by law.

11 Section 2. COUNTIES. The counties of the state of
12 ~~Montana-as-they~~ are those that exist at on the adoption
13 date of ratification of this constitution ~~are-the-counties~~
14 ~~of-the-state.~~ No county boundaries boundary shall may not
15 be changed or county seats transferred until approved by
16 a majority of those voting on the question in each county
17 affected.

18 Section 3. FORMS OF GOVERNMENT. (1) The legislature
19 shall provide ~~by-law~~ methods ~~for the-government-of~~ governing
20 local government units and ~~for~~ procedures of for incorpor-
21 ating, classifying, merging, consolidating, and dissolving
22 such units, and of altering their boundaries. The legisla-
23 ture shall provide ~~by-law-for~~ such optional or alternative
24 forms of government ~~for~~ that each unit or combination of
25 units ~~to-enable-a-unit-or-combination-of-units-to~~ may adopt,
26 amend, or abandon an optional or alternative form by a
27 majority of those voting on the question.

28 (2) One optional form of county government includes,
29 but is not limited to, the election of three county commis-
30 sioners, a clerk and recorder, a clerk of district court,

1 a county attorney, a sheriff, a treasurer, a surveyor,
2 a county superintendent of schools, an assessor, a
3 coroner, and a public administrator. whose The terms,
4 qualifications, duties, and compensation of those offices
5 shall be prescribed provided by law. The Board of county
6 commissioners may consolidate two or more such offices.
7 The Boards ~~of-Commissioners~~ of two or more counties may
8 provide for a joint office and for the election of one official
9 to perform the duties of that any such office in ~~the-respec-~~
10 tive those counties.

11 Section 4. GENERAL POWERS. (1) A local government units
12 ~~not-exereising without~~ self-government powers ~~under-Sections-5~~
13 ~~and-6-shall-have~~ has the following general powers:

14 (1) (a) An incorporated cities-and-towns-shall-have city
15 or town has the powers of a municipal corporation and such
16 legislative, administrative, and other powers ~~as~~ provided or
17 implied by law.

18 (2) (b) A Counties-shall-have-such county has legislative,
19 administrative, and other powers ~~as~~ provided or implied by law.

20 (3) ~~The-powers-of-incorporated-cities-and-towns-and-counties~~
21 ~~shall-be-liberally-construed-~~

22 (4) (c) Other local government units ~~shall~~ have such powers
23 ~~as~~ provided by law.

24 (3) (2) The powers of incorporated cities and towns and counties
25 shall be liberally construed.

26 Section 5. SELF-GOVERNMENT CHARTERS. (1) The legislature
27 shall prescribe provide procedures ~~and-may-set-limits-under-which~~
28 permitting a local government unit or combination of units may to
29 frame, adopt, amend, revise, or abandon a self-government charter
30 with the approval of a majority of those voting on the question.

1 The prescribed procedures, however, shall not require approval
2 of a charter by a legislative body.

3 (2) If the legislature does not provide such procedures
4 by July 1, 1975, they may be established by election either:

5 (a) Initiated by petition in the local government unit
6 or combination of units; or

7 (b) Called by the governing body of the local govern-
8 ment unit or combination of units.

9 (3) Charter provisions ~~with-respect-to-a-local-govern-~~
10 ~~ment-unit's~~ establishing executive, legislative, and adminis-
11 trative structure and organization ~~shall-be~~ are superior to
12 statutory provisions.

13 Section 6. SELF-GOVERNMENT POWERS. A local govern-
14 ment units adopting a self-government charters may exercise
15 ~~all any~~ powers not prohibited by this constitution, ~~by~~ law,
16 or ~~by~~ charter. This grant of self-government powers may be
17 extended to other local government units through optional
18 forms of government provided for in section 3.

19 ~~Section 7.--INTERGOVERNMENTAL COOPERATION.--A local~~
20 ~~government-unit-by-act-of-its-governing-body-may, or, upon~~
21 ~~being-required-by-initiative-or-referendum, shall-cooperate,~~
22 ~~consolidate-or-agree-in-the-exercise-of-any-function, power~~
23 ~~or-responsibility-with, or-share-the-service-of-an-officer~~
24 ~~or-facilities, or-transfer-or-delegate-any-function, power~~
25 ~~or-responsibility-or-duties-of-an-officer-to-one-or-more~~
26 ~~other-local-government-units, school-districts, the-state~~
27 ~~or-the-United-States, unless-prohibited-by-law-or-charter.~~

28 Section 7. INTERGOVERNMENTAL COOPERATION. (1) Unless
29 prohibited by law or charter, a local government unit may

30 (a) cooperate in the exercise of any function, power,

1 or responsibility with,
2 (b) share the services of any officer or facilities with,
3 (c) transfer or delegate any function, power, responsibility,
4 or duty of any officer to
5 one or more other local government units, school districts, the
6 state, or the United States.

7 (2) The qualified electors of a local government unit may,
8 by initiative or referendum, require it to do so.

9 Section 9. 8 INITIATIVE AND REFERENDUM. The legislature
10 shall extend the initiative and referendum powers reserved to
11 the people by the constitution ~~shall-be-extended-by-law~~ to the
12 qualified ~~voters~~ electors of each local government unit.

13 Section ~~11~~. 9 VOTER REVIEW OF LOCAL GOVERNMENT. (1) The
14 legislature shall, within four years of the ~~adoption~~ ratification
15 of this constitution, provide ~~for~~ procedures ~~by-which~~ requiring
16 each local government unit or combination of units to either
17 ~~separately-or-jointly-shall~~ review the-government its structure
18 ~~of-the-local-unit-or-joint-unit~~ and ~~shall~~ submit one alternative
19 form of government to the ~~voters~~ qualified electors at the next
20 general or special election.

21 (2) The legislature shall ~~provide-for~~ require a review
22 procedure ~~each~~ once every ten years after the first election.

1 REPORT NO. XI - LOCAL GOVERNMENT
2 COMMENTS ON STYLE, FORM, AND GRAMMAR

3 Section 2. Changes in the first sentence specify the
4 date upon which the identity of the counties will be estab-
5 lished. The noun "ratification" was substituted for "adoption"
6 because the former is applied by the present constitution to
7 the process which will occur on June 6.

8 Section 3. Language changes shorten and clarify without
9 altering substance.

10 Section 4. Changes in language and order do not alter
11 substance.

12 Section 5. Language changes do not alter substance.
13 The words "may set limits" were removed from subsection (1)
14 for two reasons: 1. The verb shifts from the mandatory
15 "shall" to the permissive "may." 2. The legislature "may
16 set limits" in the usual exercise of its powers without
17 any reference being made thereto.

18 Section 6. Changes from plural to singular accord
19 with good drafting standards.

20 Section 7. Reorganizing produces clarity without
21 changing substance.

22 Section 9. Language changes do not alter substance.
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